

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,022
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of PATH imposing sanctions on her ANFC grant for her failure to participate in Reach Up. The issue is whether the petitioner has complied with the work requirements of Reach Up. The following facts, which are not in dispute, are taken from the representations of the parties at a phone hearing conducted on May 8, 2001.

FINDINGS OF FACT

1. The petitioner is the single parent of a ten-year-old son. In August 1996 the petitioner enrolled in a four-year undergraduate college program in ceramic arts. She also began receiving ANFC benefits at this time under the designation of a "Group 3 Parent" (see infra).

2. As a condition of receiving ANFC the petitioner was enrolled in the Reach Up program. In December 1997 Reach Up approved a "work plan" for the petitioner to attend college with the goal of becoming a "working artist". Reach Up

supported the petitioner's studies, including allowing her money for car insurance and repair so she could get to her classes. More recently, Reach Up paid for her to rent a ceramics studio.

3. In April 1999 the petitioner reached the end of her "time limit" for ANFC. Under the regulations (see infra) the petitioner was required to either take a full-time job or accept community service employment. However, Reach Up allowed her to continue her course work until her graduation in June 2000.

4. In the summer of 2000 the petitioner worked as a free lance artist. In November 2000 she met with Reach Up to discuss her ongoing plan and efforts to become self-supporting as an artist.

5. In March 2001 the Department informed the petitioner that it would not allow her any more time to pursue her goal without immediately taking full-time employment. The petitioner feels that she is within only a few months of financially establishing herself as an artist. Therefore, she argues, it would be wasteful and counterproductive for her to take an unskilled job at the expense, or at least the distraction, of achieving the career goal she has invested so

heavily in and which the Department has supported her in until now.

6. On March 22, 2001 the Department notified the petitioner that because of her failure to comply with the immediate work search requirement she is subject to the "sanctions" of having her ANFC check placed on vendor payments and is no longer eligible for Reach Up support for car insurance and repair and studio rent.

7. The petitioner admits that to date she has not received any substantial income from her ceramics work. However, she states that she has been steadily working at setting up her business and that she now has several orders for which she will be paid shortly. She expects to be self-supporting from her ceramics work by July 2001. She requests that her ANFC grant be paid without vendors until that time¹ and that Reach Up reimburse her for a recent car repair of about \$400.

ORDER

The Department's decision is affirmed.

¹ The petitioner's ANFC has continued without sanctions pending this appeal.

REASONS

Since 1994, certain conditions have been attached to the receipt of ANFC benefits under Act 106, commonly known as the Welfare Restructuring Project. See WAM § 2340.1. Under the regulations parents who are placed in Group 3 are subject to the following requirements:

2343.6 Participation Requirements for Group 3 Parents

Most Group 3 parents are subject to a time limit on the number of months they receive ANFC before being required to meet certain Reach Up participation requirements, including work requirements. If they are not otherwise exempt according to 2344.2, these parents are required to participate in Reach Up when they are within two months of the end of their time limits and after the end of their time limits (ETL). They must meet the specific participation requirements, including WRP work requirements, detailed below in 2343.62-2343.64.

Principal earners and pregnant and parenting minors assigned to Group 3 are required to participate in Reach Up before they are within two months of the end of their time limits and must also meet the participation requirements at 2343.2 and 2343.4.

2343.61 Time Limits for Group 3 Parents

The rules in this section govern who is subject to the time limit, when the time limit will expire, and how months of ANFC receipt are counted toward the time limit.

A. Parents Subject to the Time Limit

The time limit for a principal earner in a two-parent family expires after 15 cumulative months of ANFC receipt.

The time limit for a single parent or the second parent in a two-parent family in which the first

parent is incapacitated expires after 30 cumulative months of ANFC receipt.

. . .

2343.63 WRP Work Requirements After ETL

A nonexempt parent whose time limit has expired must meet the following work requirements or be referred to the conciliation process described at 2350, if he or she is eligible for conciliation. A nonexempt parent ineligible for conciliation or still not meeting these work requirements after the conciliation resolution period will be subject to the sanctions for noncompliance at 2351.2.

A. ETL Hours-of-Work Requirement

The hours needed to meet the ETL hours-of-work requirement depend on characteristics of the parent and the ANFC family and the kind of work used to meet it. The ETL hours-of-work requirement may be met through unsubsidized work, subsidized work, or other work-related activities, as specified in this section. When the parent is participating in educational or training activities included in the FDP or making progress according to an approved self-employment business plan, the ETL hours-of-work requirement may be modified or deferred. The following rules govern the determination of a parent's ETL hours-of work requirement. . . .

As the single parent of a child under 13, the petitioner is subject to a half time (i.e., at least 15 hours a week) wage-paying or approved community service work requirement. WAM § 2343.63 (A)(1)(b). The regulations allow an exception to this requirement for a parent "making progress according to a self-employment business plan". WAM § 2343.63(A)(5). Under this provision a parent must attain a certain number of

countable (i.e., remunerative) self-employment hours according to specific "milestones" set forth in the regulation. Under this regulation the petitioner was required to have attained at least 15 hours of countable self-employment within 18 months after reaching the end of her ANFC time limit. There is no question in this case that the petitioner, who reached her ANFC time limit in April 1999, did not meet this milestone within 18 months (i.e., by November 2000), and still hasn't. It further appears that the Department allowed the petitioner the maximum time under the above regulations, if not more, before it imposed any sanction on the petitioner's ANFC grant.

WAM § 2351.2 provides that parents who refuse to accept an unsubsidized job or community service employment after receiving 30 months of ANFC "shall be required to report their circumstances monthly in order to remain eligible for ANFC benefits and shall have their benefits provided in the form of vendor payments."

The petitioner does not maintain that the Department has incorrectly applied the above regulations to her case. Her argument, not disputed by the Department, is that the regulations fail to take into account the circumstances peculiar to her case. Indeed, it appears that the petitioner has worked hard and is very close to attaining economic self-

sufficiency as an artist. However the fact remains that she is now a year from having completed her art degree and more than two years from the end of her ANFC time limit. It is clear under the regulations that to avoid sanctions she is now required to accept remunerative employment.

Unfortunately for the petitioner, the Board is constrained to uphold decisions by the Department that are "in compliance with the applicable law and policy even though the board might disagree with the results effected by that decision". Fair Hearing Rule No. 17, 3 V.S.A. § 3091(d). Therefore, the Department's decision in this matter must be affirmed.

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